

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company (U 904 G) Regarding Year 10 (2003-2004) of Its Gas Cost Incentive Mechanism.

Application 04-06-025
(Filed June 15, 2004)

**SCOPING MEMO AND RULING OF THE ASSIGNED COMMISSIONER
REGARDING THE GAS COST INCENTIVE MECHANISM FOR YEAR 10**

I. Introduction

Southern California Gas Company (SoCalGas) filed its Year 10 Gas Cost Incentive Mechanism (GCIM) application on June 15, 2004. In a December 8, 2004 ruling of the assigned administrative law judge (ALJ), interested parties were notified of the proposed procedure to resolve the issues in this proceeding, and of the opportunity to file an objection to the proposed procedure. No responses to the ALJ ruling were filed.

This scoping memo and ruling identifies the issues in this proceeding, determines that no hearings are needed at this juncture, and that a draft decision regarding SoCalGas' request for its Year 10 GCIM award should be prepared for the Commission's action.

II. Background

Following the filing of the Year 10 GCIM application, a response to the application was filed by the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN) on July 19, 2004 and July 23, 2004, respectively, and a protest to the application was filed by Southern California Edison

Company (SCE) on July 23, 2004. SoCalGas filed a reply to TURN's response and to SCE's protest on August 2, 2004.

The December 8, 2004 ruling described the responses and protest to the application, and SoCalGas' reply. The ruling stated that it appears that the parties agree on the issues to be resolved in this proceeding, and if no objections to the proposed procedure are filed, that this proceeding should proceed with the issuance of a scoping memo and ruling, followed by a draft decision on the Year 10 application which "would be patterned after the Year Seven, Eight, and Nine decisions, and would incorporate any action that may be needed once a decision regarding Investigation (I.) 02-11-040 is adopted." (December 8, 2004 Ruling, p. 4.)

No one filed any response to the proposed procedure set forth in the December 8, 2004 ruling.

III. Scope of Issues

SCE's protest notes that it has been an active participant in SoCalGas' prior GCIM proceedings, and that it has asserted in those proceedings that the GCIM "creates perverse incentives, harms noncore customers, and has a detrimental impact on the California energy markets." (SCE Protest, p. 2.) SCE also states that it has been active in the ongoing Commission investigation (I.02-11-040) into the cause of the natural gas border price spikes from March 2000 through May 2001, and that the first phase of that investigation is focusing on the Sempra Energy Companies, and the issues raised in the previous GCIM applications. SCE states that I.02-11-040 has a direct bearing on the Year 10 application because the Commission has stated in I.02-11-040 that it could eliminate or modify the GCIM structure. SCE's protest also notes that the shareholder award amounts in Decision (D.) 04-02-060, D.03-08-065, and D.03-08-064 were made subject to

possible refund or adjustment depending on the outcome of I.02-11-040, and that SoCalGas' Year 10 application should be treated similarly.

I.02-11-040, which was adopted on November 21, 2002, opened an investigation into the following issues, among others:

“2. Did any of the utilities' affiliates or parent companies play a role in causing the increase in border prices? Did concerns about affiliates or parents' financial position cause utilities to take actions that may have increased gas costs?

“ ...

“4. Did the utilities' gas cost incentive mechanisms create perverse incentives to increase or otherwise manipulate natural gas prices at the California border? We shall examine whether SoCalGas' Year 7 and Year 8 operations under the GCIM, enabled them to exercise market power and/or anticompetitive behavior. If so, should these incentive mechanisms be modified or eliminated to prevent such activity?” (I.02-11-040, p. 9.)¹

The December 8, 2004 ruling noted that ORA released its report on SoCalGas' Year 10 GCIM on October 15, 2004. ORA's report recommends that the Commission authorize SoCalGas to recover its shareholder reward of \$2.4 million. No other issues requiring hearings were identified in ORA's report.

TURN's response to SoCalGas' application notes that SoCalGas' recommendation to establish a consultation process with TURN and ORA for its interstate natural gas capacity commitments was adopted by the Commission in D.04-09-022 for Rulemaking (R.) 04-01-025. TURN's response states that since this consultation process is relevant to SoCalGas' performance under its GCIM,

¹ On December 16, 2004, the Commission rejected the proposed decision in I.02-11-040 which recommended that SoCalGas be found to have taken actions which constrained gas supplies and increased border gas prices during the 2000 to 2001 winter.

that TURN's participation in this process should be recovered through the intervenor compensation process in the GCIM. TURN states that hearings are not needed.

SoCalGas' reply states that it does not oppose SCE's request that the Year 10 GCIM be treated in a manner similar to the Year Seven, Eight and Nine applications. With respect to TURN's request that its participation in the interstate capacity consultation process be considered in the GCIM using intervenor compensation, SoCalGas supports TURN's request.

The December 8, 2004 ruling proposed that since SoCalGas and the other parties who filed responses or protests agree on the issues to be resolved in this proceeding, that no prehearing conference and no evidentiary hearings are needed.²

The first issue to address in this proceeding is whether SoCalGas should be awarded the \$2.4 million it is requesting in its Year 10 GCIM application. The second issue is if the GCIM is modified or eliminated in I.02-11-040, how SoCalGas' GCIM award request for Year 10 will be affected. The third issue is whether TURN should be permitted to claim intervenor compensation in the GCIM for its work related to consultation process for the interstate capacity commitment.

SCE's contention that the GCIM created perverse incentives impacts the first and second issues noted above. SCE's contention is being litigated in I.02-11-040. If the Commission ultimately determines in that investigation that the GCIM should be modified or eliminated on a retroactive basis, that may

² Resolution ALJ 176-3136, which was adopted on June 15, 2004, preliminarily determined that a hearing was needed in this proceeding.

affect the Year 10 GCIM amount that SoCalGas is requesting in this application, and a future hearing may be needed to examine the effect on the Year 10 GCIM amount.

SCE raised the same contention in SoCalGas' Year 7, Year 8, and Year 9 GCIM applications. In D.03-08-065, D.03-08-064, and D.04-02-060 the Commission found that SoCalGas reasonably managed its gas acquisitions and operations for Year 7, Year 8, and Year 9, respectively, within the context of the GCIM that existed at the time. The Commission concluded in those three decisions that SoCalGas should be awarded the shareholder awards that it was seeking, subject to refund or adjustment as may be determined in I.02-11-040. Since I.02-11-040 has not been resolved, the Year 10 GCIM application should be approached in the same manner.

No one contests SoCalGas' calculation of the GCIM award or its operations under the GCIM that existed during Year 10. Depending on the outcome in I.02-11-040, a hearing may be needed in this proceeding in the future if the Commission decides in I.02-11-040 that the GCIM should be modified or eliminated on a retroactive basis.

The third issue is whether TURN should be permitted to file for intervenor compensation in connection with the consultation process for interstate capacity. Since the consultation process adopted in D.04-09-022 affects the transportation of gas into SoCalGas' service territory, that process affects the GCIM. TURN should be permitted in the Year 10 GCIM application, and in future GCIM applications of SoCalGas, to seek intervenor compensation in connection with its involvement in the consultation process. Accordingly, TURN should be allowed

to file a notice of intent (NOI) to claim compensation in this proceeding for this consultation work.³ The NOI shall be filed and served within 21 days of today's date, and any response to the NOI shall be filed and served within 36 days of today's date.

No one raised any other issues in this proceeding which require a hearing. Accordingly, no evidentiary hearings are needed in this GCIM application unless a decision in I.02-11-040 determines that the GCIM that SoCalGas was operating under in Year 10 should be modified or eliminated. Thus, the preliminary determination made in Resolution ALJ 176-3136 that a hearing is needed shall be changed to reflect that there is no need for a hearing.

Following the issuance of this scoping memo and ruling, a draft decision on SoCalGas' Year 10 GCIM application will be prepared and issued for comment pursuant to the Commission's Rules of Practice and Procedure. Any award that may be granted in such a decision should be subject to refund or adjustment as may be determined in I.02-11-040. This same course of action was taken with respect to SoCalGas' Years 7, 8, and 9 applications, and the same procedural course of action should be followed here.

This application was preliminarily categorized as ratesetting in Resolution ALJ 176-3136 on June 15, 2004. Today's ruling confirms that categorization.

³ On November 9, 2004, TURN filed a request for compensation in R.04-01-025. As part of that request, TURN is requesting that its involvement in the consultation process be compensated, or that the Commission specify the proceeding in which TURN should file such a claim. If TURN files a request for compensation in this proceeding, TURN must ensure that it does not duplicate any prior request for compensation for the same work.

Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this ruling. (*See* Rule 6.4.)

Since a hearing is not needed at this juncture, ex parte communications are permitted as provided for in Rule 7(e) of the Commission's Rules of Practice and Procedure.

It is expected that this proceeding will be completed within 18 months from the filing of SoCalGas' application.

IV. Schedule

The following is the schedule that should be followed in this proceeding.

Scoping memo and ruling issued.	January 12, 2005
Notice of intent (NOI) to claim compensation to be filed and served.	Within 21 days of today's date.
Response on NOI to be filed and served.	Within 36 days of today's date.
Draft decision issued.	February 15, 2005.
Ruling on NOI to be issued.	Within 50 days of today's date.
Comments and reply comments on draft decision.	In accordance with Rule 77.7.
Decision adopted by the Commission.	On or about March 17, 2005.

IT IS RULED that:

1. The scope of issues, and how the issues will be resolved, are explained in the body of this ruling.
2. Any party planning to file a notice of intent to claim compensation (NOI) for work related to this proceeding shall file and serve the NOI within 21 days of today's date, and any response to the NOI shall be filed and served within 36 days of today's date.

3. The schedule for this proceeding will follow the schedule set forth in this ruling.

Dated January 12, 2005, at San Francisco, California.

/s/ Susan P. Kennedy
Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of the Assigned Commissioner Regarding the Gas Cost Incentive Mechanism for Year 10 on all parties of record in this proceeding or their attorneys of record.

Dated January 12, 2005, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.